

BEFORE THE BOARD OF MEDICAL EXAMINERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed) NOTICE OF PUBLIC HEARING
adoption of NEW RULE I,) ON PROPOSED ADOPTION
pertaining to medical)
assistants)

TO: All Concerned Persons

1. On November 22, 2003, at 11:00 a.m., a public hearing will be held at the Elkhorn Mountain Inn, 1 Jackson Creek Road, Montana City, Montana, to consider the proposed adoption of the above-stated rule.

2. The Department of Labor and Industry will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Medical Examiners no later than 5:00 p.m., on November 14, 2003, to advise us of the nature of the accommodation that you need. Please contact Jeannie Worsch, Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2360; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2363; e-mail dlibsmed@state.mt.us.

3. The proposed new rule provides as follows:

NEW RULE I MEDICAL ASSISTANTS (1) For purposes of this rule, the following definition applies:

(a) "Physician or podiatrist's office" means those places designated by the physician or podiatrist as his or her office and at which patients are seen by the physician, podiatrist or physician assistant-certified.

(2) Medical assistants shall work under the supervision of a Montana-licensed physician, podiatrist or physician assistant-certified who is responsible for all administrative and clinical tasks performed by the medical assistant.

(3) Physician, podiatrist or physician assistant-certified supervision shall be active and continuous but shall not be construed as requiring the physical presence of the supervising physician, podiatrist or physician assistant-certified at the time and place that services are rendered so long as the physician, podiatrist or physician assistant-certified is available for consultation except that physician, podiatrist or physician assistant-certified supervision shall be on-site when a medical assistant performs invasive procedures, administers medicine or performs allergy testing.

(4) The supervising physician, podiatrist or physician assistant-certified is responsible for determining the competency of a medical assistant to perform the administrative and clinical tasks delegated to the medical

assistant. A medical assistant shall perform clinical and administrative duties only within the supervising physician's, podiatrist's or physician assistant-certified's scope of practice and consistent with the medical assistant's education, training and experience.

(5) A medical assistant must be a graduate of an accredited medical assisting program or possess experience, training or education sufficient, in the supervising physician's, podiatrist's or physician assistant-certified's opinion, to perform delegated duties responsibly, safely and conscientiously.

AUTH: 37-3-104, 37-3-203, MCA

IMP: 37-1-131, 37-3-104, MCA

REASON: The Board finds that there is reasonable necessity to adopt NEW RULE I to comply with and implement the provisions of section 37-3-104, MCA, enacted in Chapter 85, Laws of 2003, which require the Board to adopt guidelines by administrative rule for administering the use of unlicensed medical assistants by physicians, podiatrists and physician assistants-certified.

4. Concerned persons may present their data, views or arguments either orally or in writing at the hearing. Written data, views or arguments may also be submitted to the Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2363, or by e-mail to dlibsmed@state.mt.us, and must be received no later than 5:00 p.m., December 15, 2003.

5. An electronic copy of this Notice of Public Hearing is available through the Department's and Board's site on the World Wide Web at <http://discoveringmontana.com/dli/med>. The Department strives to make the electronic copy of this Notice of Public Hearing conform to the official version of the Notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the Notice and the electronic version of the Notice, only the official printed text will be considered. In addition, although the Department strives to keep its website accessible at all times, concerned persons should be aware that the website may be unavailable during some periods, due to system maintenance or technical problems, and that a person's technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The Board of Medical Examiners maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this Board. Persons who wish to have their name added to the list shall make a written request which includes the name and mailing address of the person to receive notices and specifies that the person wishes to

receive notices regarding all Board of Medical Examiners administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2363, e-mailed to dlibsmed@state.mt.us, or may be made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

8. Anne O'Leary, attorney, has been designated to preside over and conduct the public hearing.

9. The Board of Medical Examiners will meet on January 16, 2004, at its regularly scheduled meeting, to consider the comments made by the public, the proposed responses to those comments, and take final action on the proposed rule adoption. Members of the public are welcome to attend and listen to the Board's deliberations.

BOARD OF MEDICAL EXAMINERS
ANNE M. WILLIAMS, M.D., CHAIRMAN

/s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State October 20, 2003